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PTO/SB/33 (07-05)

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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) ITL.1016US (P16703)	
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on <u>November 8, 2005</u> Signature <u>Cynthia L. Hayden</u> Typed or printed name <u>Cynthia L. Hayden</u>		Application Number 10/629,127	Filed July 29, 2003
		First Named Inventor Chris E. Barns et al.	
		Art Unit 2822	Examiner Khanh B. Duong
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p>			
I am the <input type="checkbox"/> applicant/inventor. <input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96) <input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>28,994</u> <input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____		 Signature <u>Timothy N. Trop</u> Typed or printed name <u>(713) 468-8880</u> Telephone number <u>November 8, 2005</u> Date	
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below".			
<input type="checkbox"/> *Total of _____ forms are submitted.			

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Applicant:	§	
Chris E. Barns et al.	§	Art Unit: 2822
	§	
Serial No.: 10/629,127	§	Examiner: Khanh B. Duong
	§	
Filed: July 29, 2003	§	Docket: ITL.1016US
	§	P16703
For: Preventing Silicide Formation at	§	
the Gate Electrode in a Replacement	§	Assignee: Intel Corporation
Metal Gate Technology	§	

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

STATEMENT IN SUPPORT OF
PRE-APPEAL BRIEF REQUEST FOR REVIEW

Sir:

Pre-appeal review is respectfully requested in this case because the asserted operation suggested in the last office action is impossible. Given this fact, the rejection should be reconsidered.

As shown below, Figure 7 from the reference is modified to indicate the deposition of the layer 72 which, the Examiner indicates in the advisory action, is the reason for the maintenance of the rejection. The reason for doing this is that the layer which is blanket deposited is never shown, only the results after additional processing is shown in Figure 8. Thus, in Figure 7, it is shown how the layer 72 would necessarily have looked as blanket deposited. See column 4, lines 9 and 10. This would be followed by a chemical mechanical planarization step which the Examiner suggests is selective. However, to remove the hard mask 52, that so-called selective step would have to remove all the material shown in hatching in the figure above. Thus, not only

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Cynthia L. Hayden
Cynthia L. Hayden

is the hard mask 52 removed, but a large portion of the layer 72 is removed, namely, the portion of the layer over and along the sides of the layer 52. Thus, there is no way to say that that mechanical polishing process is selective of the hard mask over the layer 72. If it were, no etching would ever occur.

Therefore, it is respectfully submitted that the rejection is untenable and should be reconsidered.

To the extent there is some argument that the claim may also read on a stripping process, it is noted that stripping is referred to in column 4, lines 17-20. However, this is only applied if "such a process is not used." Then, the remaining portion of layer 52/152 is stripped, exposing the poly 30 in the gate. Obviously, such a process is the blanket deposition of the nitride 72. In other words, it is saying that if you do not do that, then the only way to expose the gate 30 is to simply strip off the layers 52 and 152. Clearly, such stripping cannot be selective because it takes the material 152 and 52 off equally and no layer 72 would ever have been used.

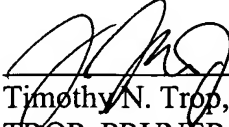
The argument in the advisory action that the sidewall spacers 72 remain after the removal process is incorrect. Some portion of them remains but, as pointed out above, a substantial portion of them was removed. If this were not so, there would have been no way to remove the mask which would have been protected by the overlying portion of the layer 72.

While it is conceded that any stripping process might be selective, there is no basis to believe that any stripping process in the cited reference was selective of a hard mask over the spacer.

Therefore, reconsideration would be appropriate.

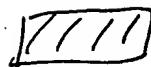
Respectfully submitted,

Date: November 8, 2005



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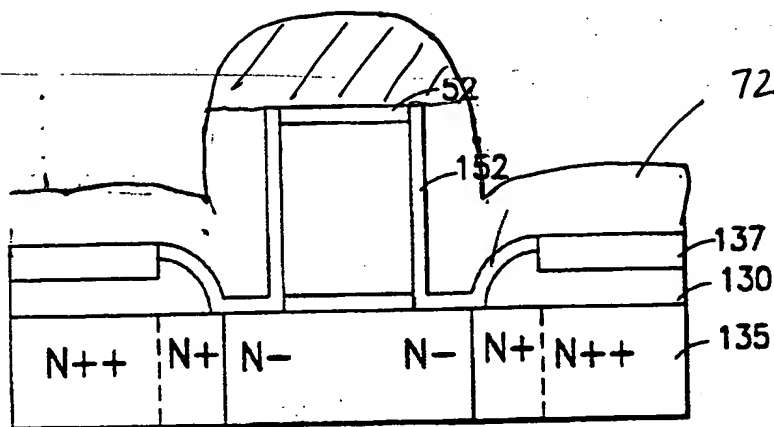


FIG. 7

Lee '530 MODIFIED